

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Altareek Grice,
Plaintiff,

v.

Pepsi Beverages Company, *et al.*,
Defendant.

**17-CV-8853 (JPO)
CLASS ACTION**

**NOTICE OF MOTION AND MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

PLEASE TAKE NOTICE that, on _____ at _____ or as soon thereafter as may be heard before District Court Judge J. Paul Oetken at the United States Courthouse located at 500 Pearl Street, New York, NY 10007-1312, Courtroom 706, Plaintiff Altareek Grice (“Plaintiff” or “Class Representative”) will and hereby does move the Court for an Order:

1. Certifying the Settlement Class for settlement purposes only;
2. Preliminarily approving the “Joint Stipulation of Class Action Settlement” (attached as Exhibit 1 to the Declaration of Peter R. Dion-Kindem in support of this motion) in a manner consistent with the Parties’ Proposed Order Granting Preliminary Approval of Class Action Settlement (filed concurrently with this motion);
3. Appointing Plaintiff as Class Representative for the Settlement Class;
4. Appointing Peter R. Dion-Kindem of The Dion-Kindem Law Firm and Lonnie C. Blanchard, III of The Blanchard Law Group, APC as Class Counsel (“Plaintiff’s Counsel” or “Class Counsel”);
5. Approving the form and content of the Claim Form and Notice attached as Exhibits A and B to the Settlement Agreement;
6. Approving the notice procedures set forth in the Settlement;

7. Directing that notice be given to the Settlement Class as provided in the Settlement; and
8. Scheduling a final fairness hearing.

This motion is made on the grounds that: (1) the Settlement Class meets all of the requirements for class certification under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure; (2) the Settlement is fair, adequate, and reasonable as required under Rule 23(e); (3) Plaintiff and Class Counsel are adequate to represent the Settlement Class as required by Rule 23(a)(4) and (g); (4) the notice procedures and related forms comport with all relevant due process and Rule 23(c)(2)(B) requirements; and (5) based on the foregoing, notice should be directed to the Settlement Class and a final fairness hearing should be scheduled.

This motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities in support thereof, the Declarations of Peter R. Dion-Kindem, Lonnie C. Blanchard, III, Brandon Hill, Luis Cabassa, Marc Edelman, and Altareek Grice, all accompanying exhibits, all papers currently on file with this Court, and such further evidence and arguments as may be presented at hearing.

Dated: May 2, 2018

/s/ **Marc R. Edelman**

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically and served by U.S. Mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by facsimile to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

By: /s/Marc R. Edelman

Marc R. Edelman

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